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[§ 13-1 Purpose.](#)

Pursuant to the provisions of § 806 of the General Municipal Law, the City Council of the City of Kingston recognizes that there are standards of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be expected and if public confidence is to be maintained by our City government. It is the purpose of this chapter to promulgate these rules of ethical conduct for officers and employees of the City of Kingston. These rules shall serve as a guide for official conduct of officers and employees of the City of Kingston. The rules of ethical conduct of this chapter, as adopted, shall not conflict with but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

[§ 13-2 Definitions.](#)

As used in this chapter, the following terms shall have the meanings indicated:

[CITY GOVERNMENT](#)

Includes the City Council and all departments, offices, boards, committees, bureaus and instrumentalities of the government of the City of Kingston.

[CITY WORKPLACE](#)

Either:

[A.](#)

Any building, shop area, office or part thereof under the control of the City and designated as a place to conduct City business; or

B.

Any place where a City officer or employee is acting on City business.

CONFIDENTIAL INFORMATION

Any data acquired through the course of employment or public office which is protected from disclosure by law.

CUSTOMER or CLIENT

A.

Any person to whom an officer or employee of the City of Kingston has supplied goods or services, including, but not limited to, professional services, during the previous 24 months, having, in the aggregate, a value greater than \$1,000; or

B.

Any person to whom an officer's or employee's outside employer or business has supplied goods or services, including, but not limited to, professional services, during the previous 24 months, having, in the aggregate, a value greater than \$1,000, but only if the officer or employee knows or has reason to know the outside employer or business supplied the goods or services. For the purpose of this section, if the city officer or employee's outside employer employees in excess of one hundred individuals, and the officer or employee does not serve in a management provision, the provisions of section 13-3(4) shall not apply.

FAMILY

Includes spouse, domestic partner, sibling, parent, children (including children of spouse or domestic partner), grandchildren and the spouses of any of them, and any member of the individual's household.

GIFT and FINANCIAL BENEFIT

Includes anything of value, including, but not limited to, money, services, referrals, discounts, licenses, permits, contracts, authorizations, loans, travel, entertainment, hospitality, or any other gratuity or promise thereof. A financial transaction may be a financial benefit but shall not be a gift unless it is on terms not available to the general public. "Gift" and "financial benefit" do not include campaign contributions authorized by law.

HOUSEHOLD

Any and all persons who reside in the same dwelling unit as the officer or employee.

NOT-FOR-PROFIT ENTITY

A legal entity created under the Not-for-Profit Corporation Law of the State of New York.

OFFICER OR EMPLOYEE OF THE CITY OF KINGSTON

An officer or employee of the City of Kingston, whether paid or unpaid, including, without limitation, all officers, employees, volunteers, interns and members of any advisory and/or decision making board, body, council, commission, agency, department, district, administration, bureau, or committee of the City of Kingston. "Officer or employee of the City of Kingston" shall not include a judge, justice, officer, or employee of the Unified Court System.

OUTSIDE EMPLOYER OR BUSINESS

A.

Any activity, other than service to the City of Kingston, from which the officer or employee of the City of Kingston receives compensation, or the promise of compensation, for work performed, services rendered or goods sold or produced while a City officer or employee; or

B.

Any entity, other than the City of Kingston, of which the officer or employee of the City of Kingston is a member, owner, principal, shareholder, officer, or employee and from which he or she receives compensation for services rendered or goods sold or produced; or

C.

Any entity in which an officer or employee of the City of Kingston has an ownership interest, except a corporation of which the officer or employee of the City of Kingston owns less than 5% of the outstanding stock. For purposes of this definition, "compensation" shall not include reimbursement for necessary expenses, including travel expenses.

PERSON

Includes both individuals and entities.

POLITICAL PARTY OFFICER

Any person serving or acting as the Chair, Vice Chair, First Vice Chair, Secretary, Treasurer, delegate, or equivalent officers by whatever name or title known, of any political party or committee organized for the purpose of nominating persons for elective office in the government of the City of Kingston.

SUBORDINATE OF AN OFFICER OR EMPLOYEE OF THE CITY OF KINGSTON

Another officer or employee of the City of Kingston over whose activities he or she has direction, supervision, or control.

§ 13-3 Standards of conduct.

A.

General prohibition. A City officer or employee shall not use his or her official position or office, or take or fail to take any action, in a manner which he or she knows, or has reason to know, may result in a personal financial benefit for any of the following persons:

(1)

The City officer or employee;

(2)

His or her outside employer or business;

(3)

A member of his or her household;

(4)

A customer or client;

(5)

A member of his or her family; or

(6)

Any firm, corporation, association, partnership or other organization in which the City officer or employee, or a member of his or her family, serves as an officer or director, whether compensated or not compensated.

B.

Specific City officers and employees.

(1)

Responsibilities.

(a)

Officers or employees who are professionally licensed. Except as provided in Section 13-3(O) below, all City officers and employees with professional licenses are prohibited from knowingly exercising any discretion in any matter of City business which shall involve any person or entity which is a client of his or her business or firm or a business partner, contractor or subcontractor in a business endeavor of his or her business or firm.

(b)

Officers or employees who are authorized to review engineering drawings, conduct inspections and issue permits.

[1]

No City officer or employee who is authorized to review and approve engineering drawings, conduct inspections or issue permits shall engage in a business within the City or have a financial interest in any firm engaged in a business within the City if said business conducts, as a regular and significant part of its business, matters requiring such inspections or such permits.

[2]

No officer or employee who is authorized to review and approve engineering drawings, conduct inspections and/or issue permits shall act as an expert witness for any entity other than the City, under circumstances where all or part of his or her expert testimony is based on certifications or credentials provided and/or paid for by the City, while employed by the City.

[3]

Any such City officer and/or employee shall recuse himself/herself from reviewing any engineering drawings, conducting any such inspection or issuing any necessary permits that directly pertain to any person or entity which is a customer or client of his or her business or firm, or a person materially involved in a business endeavor of his or her business or firm.

B.

Gifts. Except as set forth below, a City officer or employee shall not directly or indirectly solicit, accept or agree to accept any gift or favor, whether in the form of money, services, loans, travel, entertainment, hospitality, material items, promise or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence such City officer or employee, or could reasonably be expected to influence such City officer or employee, in the performance of his or her official duties or was intended as a reward for any official action taken by such City officer or employee. This restriction shall not be construed as applying to the following situations in which gifts or benefits are:

(1)

Received by the officer or employee from his or her parent, spouse, child or sibling;

(2)

Accepted on behalf of the City and transferred to the City;

(3)

Received as refreshments or meals at a widely attended gathering;

(4)

Received for the solemnization of a marriage by an officer or employee of the City of Kingston listed in § 11 of the Domestic Relations Law at a place other than his or her normal place of business or at a time other than his or her normal hours of business and which have a value of \$75 or less;

(5)

Received as nonmonetary awards from charitable organizations; or

(6)

Received as City services or benefits, or the use of City facilities, generally available on the same terms and conditions to residents or a class of residents in the municipality.

D.

Confidential information. He or she shall not disclose confidential information acquired by him or her in the course of his or her official duties or use such information to further his or her personal interest or the personal interest of other individuals or entities for personal gain or profit.

E.

Representation before one's own agency. He or she shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he or she is an officer, member or employee or of any municipal agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer or employee.

F.

Representation before any agency for a contingent fee. He or she shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his or her municipality whereby his or her compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

G.

Disclosure of interest in legislation. To the extent that he or she knows thereof, any officer or employee of the City City, whether paid or unpaid, who participates in the discussion or gives official opinion to any City Board or Agency or to the Common Council the City, shall publicly disclose on the official record at an open meeting the nature and extent of any direct or indirect financial or other private interest he or she has in such matter, including any involvement in current or past litigation.

H.

Investments in conflict with official duties. Officers and/or employees shall not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction which creates a conflict with their official City duties.

I.

Outside employer or business. Officers and/or employees shall not engage in, solicit, negotiate for or promise to accept work for an outside employer or business who does business with the City which creates a conflict with or impairs the proper discharge of his official duties or results in personal gain.

J.

Future employment. No city officer and/or employee shall permit a former city officer and/or employee from appearing before any board or agency of the City in relation to any case, proceeding, project or application in which the former officer and/or employee personally participated during the period of his or her service or employment or which was under his or her active consideration.

K.

No city officer and/or employee shall act in a way so as to coerce or solicit any other city officer and/or employee on behalf of any political candidate or organization.

(1)

Officers or employees shall not use City workplace to influence any person to participate in an election campaign or political event or to contribute to a political party, committee, campaign or candidate.

(2)

Officers or employees shall not use a City workplace to influence, or authorize or request another to influence, any officer or employee to support or refuse to support a political party, committee, campaign or candidate.

(3)

Officers or employees shall not display, distribute or otherwise utilize election campaign literature or materials at a City workplace; however, this prohibition shall not be construed as prohibiting the wearing of small lapel pins by any person.

(4)

Nothing in this subsection shall be construed to deny any officer or employee the right to support or refuse to support any political party, committee, campaign or candidate outside of the workplace.

L.

Inducement of others. No officer or employee of the City shall induce, threaten or coerce or aid another officer or employee of the City to violate any of the provisions of this Code of Ethics.

M.

City employees. No officer or employee of the City shall direct or cause any subordinate officer or employee to do or perform any service or work outside of the scope of his or her public work responsibilities or employment.

N.

City property. No officer or employee shall use, request or permit the use of City-owned property, including, but not limited to, vehicles, equipment, materials or supplies, for personal convenience, use or profit, except when such goods or services are available to the public generally or are used by the officer or employee in compliance with City policy for such use, or where the use of City-owned property for personal use is part of the officer or employee's compensation.

O.

Conflict with other codes of conduct.

(1)

Because of the need for professional integrity and the fact that various professional associations have adopted standards of ethics and/or conduct for their members, the City hereby recognizes that each City officer or employee who is affected by a professional Code of Ethics and/or conduct be bound, in the first instance, by said Codes of Ethics and/or conduct. Any conflict between the provisions of this chapter and a given professional code of conduct of a City officer or employee shall be resolved by the Ethics Board. An officer or employee's professional code of conduct shall be examined in the context of the City Code of Ethics and the New York State Public Officers Law for relevance and applicability as issues arise.

(2)

The Ethics Board is authorized and required to obtain advisory opinions from the appropriate professional association to clarify any given situation.

P.

Interest in contracts with the City.

(1)

Prohibited interests. No City officer or employee shall have any financial interest in a business relationship, financial instrument, contract with the City, or an interest in a bank or trust company, that is prohibited by § 801 of the General Municipal Law of the State of New York. Any contract willfully entered into by or with the City in which there is an interest prohibited by that section shall be null, void, and wholly unenforceable, to the extent provided by § 804 of that law.

(2)

Disclosable interests. Any City officer or employee who has, will have, or later acquires an interest in any actual or proposed contract with the City shall disclose, in writing, the nature and extent of that interest in accordance with § 803 of the General Municipal Law and promptly file such written disclosure with the City Clerk. The City Clerk shall cause a copy of that disclosure to be filed promptly with the Ethics Board.

(3)

Violations. Any City officer or employee who willfully and knowingly violates the provisions of this section shall be subject to penalties as provided by § 805 of the General Municipal Law.

Q.

Recusal. When a City officer or employee is required to recuse himself or herself under this Code of Ethics, he or she must state that he or she is doing so at a public meeting on the public record. The officer or employee shall immediately refrain from participating in the matter further.

R.

Subsections A through Q are a comprehensive but not necessarily an exclusive list of provisions regarding ethical behavior of City employees and officers. City employees and officials should seek the assistance of the Board of Ethics when in doubt regarding any particular behavior or issue.

§ 13-4 Annual disclosure.

A.

Every official and employee listed in § [13-4C](#) hereinafter must file an Annual Disclosure Form with the Board of Ethics. Annual Disclosure Forms shall be due for filing by February 15. Annual Disclosure Forms shall be maintained in the office of the City Clerk.

B.

Employees and officers who must file Annual Disclosure Forms:

Mayor

City Clerk

Corporation Counsel

Assistant Corporation Counsel

Alderman at Large

Members of the Common Council

City Comptroller

Assessor

Superintendent of the Department of Public Works

Fire Chief

Assistant Fire Chief

Superintendent of the Kingston Water Department

Recreation Superintendent

City Planner

Members of the City Planning Board

Members of the City Zoning Board of Appeals

Director of Economic and Community Development

Members of Human Rights Commission

Director of the Office of Human Rights

Members of the City Board of Ethics

Members of the City of Kingston Local Development Corporations

Members of the City of Kingston Revolving Loan Fund

D.

Annual disclosure form. See § [13-8](#), Forms.

§ 13-5 Board of Ethics.

A.

Ethics Board established. The Board of Ethics for the City of Kingston, which shall consist of five members, is hereby established. The Corporation Counsel, or Assistant Corporation Counsel in his or her stead, shall serve as counsel to the Board of Ethics. In the event the Corporation Counsel identifies a conflict of interest, or a conflict of interest is identified in writing by the Board of Ethics, outside counsel shall be secured for the Board. There will be a budget line established and maintained for outside counsel in an amount of at least \$10,000.00. Written retainer agreements shall be required for retention of services of outside counsel. Such retainer agreements shall be subject to the approval by the Mayor of the City of Kingston. In the event that the matter involves the Mayor or a member of his family or household as those terms are defined above, the Alderman at Large shall act in the Mayor's place.

B.

Qualifications of members of Ethics Board.

(1)

No Ethics Board member shall hold office in a political party or hold elective office in the City.

(2)

At any given time, no more than two Ethics Board members may be registered in the same political party.

(3)

Ethics Board members must be residents of the City throughout their tenure as Board members.

C.

Appointment of Ethics Board members; term of office.

(1)

The Mayor shall appoint the members of the Ethics Board. The Mayor shall solicit recommendations from the Common Council with regard to three members of the Board. The Board of Ethics shall select its Chairperson annually.

(2)

Each Board member shall be appointed to a five-year term. For the initial terms, one member will be appointed for five years; one member for four years; one member for three years; one member for two years and one member for one year.

(3)

An Ethics Board member shall serve until his or her successor has been appointed.

D.

Ethics Board vacancies. Vacancies on the Board of Ethics shall be filled by Mayoral appointment for the unexpired term of the member.

E.

Removal of Ethics Board members. An Ethics Board member may be removed from office by the City Council for failure to meet the qualifications set forth in this chapter, substantial neglect of duties of office, or violation of this chapter, after written notice and opportunity for reply.

F.

Ethics Board meetings. The Ethics Board shall meet at least bi-annually. A quorum shall be three members, and a majority of the full Board shall be required for the Ethics Board to take formal action. The Chair or any member may call a meeting of the Ethics Board.

G.

Jurisdiction, powers and duties of Ethics Board.

(1)

The Ethics Board may only act with respect to officers and employees of the City of Kingston.

(2)

The termination of a municipal officer's or employee's term of office or employment with the City (on a voluntary or involuntary basis) shall not affect the jurisdiction of the Ethics Board with respect to the requirements imposed by this chapter or by the Act, if any, on a former officer or employee. However, in no event shall the Ethics Board have jurisdiction over a former officer or employee where a hearing has not been commenced pursuant to the provisions of this chapter within one year of the termination of a City officer's or employee's term of office or employment with the City.

(3)

The City Ethics Board shall have the following powers and duties:

(a)

Each year, on or before January 15, the City Ethics Board shall report to the Mayor and the City Council regarding the Board's operations of the previous year and to make recommendations to the Mayor and the City Council, as needed, for changes to this chapter.

(b) The City Ethics Board shall prescribe and promulgate rules and regulations by resolution of the Board, governing its own internal organization and procedures in a manner consistent with this chapter, and to cause to be filed with the office of the City Clerk and the office of the City Attorney a copy of those rules and regulations and any amendments thereto;

(c)

To request that the Mayor appoint such staff as is necessary to carry out its duties under this chapter;

(d)

To review, index, and maintain on file lists of officers and employees and annual and other disclosure statements filed with the Ethics Board pursuant to this chapter;

(e)

To review, index, maintain on file, and dispose of written complaints and to make notifications and conduct inquiries pursuant to this chapter;

(f)

To conduct hearings, recommend disciplinary action to the appropriate appointing authority, pass resolutions, make referrals, and initiate appropriate actions and proceedings pursuant to this chapter;

(g)

To render, index, and maintain on file advisory opinions pursuant to this chapter;

(h)

To provide for training, assistance, and education to officers and employees pursuant to this chapter, including the development and distribution of a plain-language ethics guide for use by City employees and officers, including all forms developed by the Ethics Board

H.

Review of lists and disclosure statements.

(1)

The Ethics Board shall review:

(a)

The lists of officers and employees, prepared pursuant to this chapter, who must file annual disclosure statements to determine whether the lists are complete and accurate.

(b)

All annual disclosure statements.

(c)

All amendments to disclosure statements.

(2)

If the Ethics Board determines that a filed annual disclosure statement is deficient or reveals a possible or potential violation of this chapter, the Ethics Board shall notify the person in writing, state the deficiency or possible or potential violation, provide the person with a thirty-day period to cure the deficiency, and advise the person of the penalties for failure to comply with this chapter. Such notice shall be confidential to the extent permitted by the Public Officers Law. If the person fails to cure the deficiency within the specified time period, the Commission shall send a notice of delinquency:

(a)

To the reporting person; and

(b)

In the case of the Mayor or a City Council member, to the entire City Council; and

(c)

In the case of all other municipal officers and employees, to the appointing authority for such person.

I.

Inquiries and hearings.

(1)

Upon receipt of a written inquiry, or on its own initiative, the Ethics Board shall have the power and duty to conduct any hearing necessary to carry out the provisions of this chapter. The Ethics Board may administer oaths or affirmations. In conducting any hearing pursuant to this section, the Ethics Board may subpoena witnesses and require the production of any books or records which it may deem relevant and material.

(2)

Nothing in this section shall be construed to permit the Ethics Board to conduct a hearing with respect to itself or any of its members or staff. In the event the Ethics Board receives an inquiry alleging that the Ethics Board or any of its members or staff has violated any provision of this chapter, or any other law, the Board shall promptly transmit a copy of the complaint to the Mayor who shall conduct an investigation of the complaint and forward the results of said investigation to the Common Council for action pursuant to section 3(e) above.

(3)

The Ethics Board shall state, in writing, the disposition of every written inquiry it receives and of every hearing it conducts and shall set forth the reasons for the disposition. All such statements and all written inquiries shall be indexed and maintained on file by the Ethics Board.

(4)

Any person filing a written inquiry with the Ethics Board shall be notified in writing of its disposition.

J.

Referrals by Ethics Board.

(1)

Disciplinary action. In the case of a hearing held by the Board, the due process procedural mechanisms shall be substantially similar to those set forth in Article 3 of the State Administrative Procedure Act. The Ethics Board shall conduct and complete the hearing with reasonable promptness, unless, in its discretion, the Ethics Board refers the matter to the authority or person or body authorized by law to impose disciplinary action or unless the Ethics Board refers the matter to the appropriate prosecutor. If such a referral is made, or if a matter is the subject of another governmental inquiry investigation or judicial proceeding, the Ethics Board may adjourn the matter pending a final determination of such matter by the other authority, person, body, or law enforcement agency.

(2)

Law enforcement. The Ethics Board shall refer to the appropriate law enforcement agency any facts or evidence that comes into its possession that reasonably indicates possible criminal violations.

(3)

Construction as to Ethics Board. Nothing in this section shall be construed to permit an Ethics Board to take any action with respect to any alleged violation of this chapter, or of any other law, by an Ethics Board member or members. Any inquiries regarding Ethics Board members shall be conducted by the City Council under procedures consistent with the procedures set forth in this chapter.

K.

Advisory opinions.

(1)

Upon the written request of any person, the Ethics Board may render a written advisory opinion with respect to the interpretation or application of this chapter.

(2)

Advisory opinions and requests for advisory opinions shall be indexed and maintained on file by the Ethics Board in the City Attorney's office.

L.

Public inspection of records; public access to meetings.

(1)

Records of the Ethics Board, including completed financial disclosure forms, are available for public inspection pursuant to the provisions of §§ 84 through 90 of the Public Officers Law. With regard to completed disclosure forms, notice of any request for inspection will be provided to the city officer or employee. The Ethics Board shall review any request for redaction of information from disclosure forms by an individual city officer or employee, and will authorize redaction of such information in accordance with the provisions of the Public Officer's Law and applicable precedent. Any decision regarding the redaction of such material can be appealed to the Freedom of Information Appeals Officer.

(2)

Meetings of the Ethics Board shall be accessible to the public pursuant to the provisions of §§ 100 through 111 of the Public Officers Law.

§ 13-6 Effect on filing of claims.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the City of Kingston, or any agency thereof, on behalf of himself, herself or any member of his or her family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 13-7 Distribution of copies.

The City Clerk of the City of Kingston shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the City within 30 days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment. Failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code or the enforcement of provisions thereof.

§ 13-8 Forms.

The Annual Disclosure Form required by § [13-4](#) of this chapter shall be in the following format.^[1]

[Attachment 1 - Annual Disclosure Form](#)

[Attachment 2 - Board of Ethics Inquiry](#)

[Form](#)

[\[1\]](#)

Editor's Note: The Annual Disclosure Form is included as an attachment to this chapter.

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